

CLERK'S OFFICE U.S. DIST. COURT
AT ROANOKE, VA
FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

DEC 16 2008

JOHN F. COBURN, CLERK
BY: *[Signature]*
DEPUTY CLERK

UNITED STATES OF AMERICA EX REL.)
GEORGE ZENKER Au.D.,)

Plaintiffs,)

vs.)

Civil Action No. 7:08-cv-00045

ASHBROOK AUDIOLOGY & HEARING)
AID CENTER, INC. and PAUL)
ASHBROOK, M.S.,)

Defendants.)

MOTION FOR VOLUNTARY DISMISSAL

Now comes the Relator, George Zenker, by his attorneys, SimmonsCooper LLC, Hanly Conroy Bierstein Sheridan Fisher & Hayes LLP and Woods Rogers PLC, and pursuant to Fed. Rule Civ. Pro. 41(a)(2), moves the Court for an order voluntarily dismissing the above entitled cause; and, in support of this motion, the Relator respectfully states as follows:

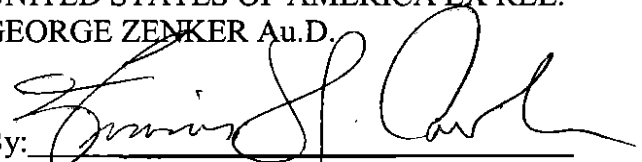
1. That on or about January 24, 2008, the Relator filed his Complaint herein alleging violations of the False Claims Act, 31 U.S.C. § 3729, et seq.
2. That on or about September 22, 2008, the United States of America filed its Notice of Election to Decline Intervention herein.
3. That the Defendants have not been served with process and have not filed an Answer or a Motion for Summary Judgment.
4. That the Relator no longer wishes to pursue this matter.

5. That attorneys for the Relator have been in contact with Assistant U.S. Attorney Rick A Mountcastle, and he advises that the United States has no objection to the dismissal of this action.

WHEREFORE, the Relator, George Zenker, respectfully prays the Court enter an order dismissing the above entitled cause without prejudice as to the United States of America or the Relator and for such other and further relief as the Court deems just and proper.

Respectfully submitted,

UNITED STATES OF AMERICA EX REL.
GEORGE ZENKER Au.D.

By: 

Francis H. Casola, Esq.
WOODS ROGER PLC
10 S. Jefferson Street, Suite 1400
Roanoke, Virginia 24011
Telephone: (540) 983-7716
Fax: (540) 983-7711

Rosalind M. Robertson, Esq., *Pro Hac pending*
SIMMONSCOOPER LLC
707 Berkshire Blvd.
East Alton, Illinois 62024
Telephone: (618) 259-2222
Fax: (618) 259-2251

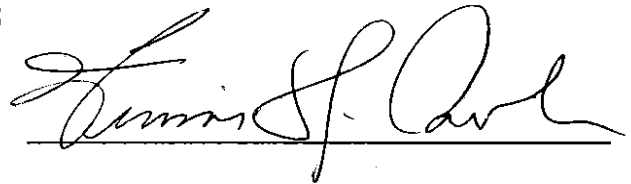
Andrea Bierstein, Esq., *Pro Hac pending*
Thomas I. Sheridan, Esq., *Pro Hac pending*
HANLY CONROY BIERSTEIN
SHERIDAN FISHER & HAYES LLP
112 Madison Avenue
New York, New York 10016
Telephone (212) 784-6404

Counsel for Relator George Zenker

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of December, 2008, I caused the mailing of a copy of this Motion for Voluntary Dismissal and the proposed Order to:

Rick A. Mountcastle
Assistant United States Attorney
PO Box 1709
Roanoke, VA 24008

A handwritten signature in black ink, appearing to read "Dennis J. Carl", is written over a horizontal line.